THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 20th November ,2006

W.P.No.13301 of 2004

Between :

D. Komala ... Petitioner

and

The Deputy Registrar of
Cooperative Societies,
Chittoor & another ... Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.13301 of 2004

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the action of the respondents in issuing the auction notice dated 26-7-2004 and also the Execution Proceedings as arbitrary and illegal and consequently to direct the respondents to stay all further proceedings of auction scheduled on 31-7-2004 in E.P.No.1/2002-03.

It appears that the husband of the petitioner was the Paid Secretary of Patrapalle P.A.C.S., Yadamarri Mandal, Chittoor District. He joined the services of the society on 25-3-1991 and died in harness on 22-1-2002. It seems, the husband of the petitioner committed certain irregularities in conducting the affairs of the society; therefore, surcharge proceedings under Section 60 of the A.P. Cooperative Societies Act,1964 were taken out and a liability was fixed on the husband of the petitioner to a tune of Rs.5,74,005/- as on 10-5-2002. Therefore, for execution of the said surcharge order, notice of attachment of immovable property in Form No.7 was issued under Rule 52(11)(d) of the Andhra Pradesh Cooperative Societies Rules,1964 (for short 'the Rules'). It is the case of the petitioner that immediately, thereafter, she filed a claim petition under Rule 52(21)(a)&(b) of Rules stating that the schedule property sought to be attached and sold under the impugned notice belongs to her and she purchased the same by way of a registered sale deed on 16-2-1991, i.e., much prior to joining of her husband in the said society. Therefore,

the purchase of the schedule property in the name of the petitioner cannot be relatable to any of the amounts purported to have been misappropriated by her husband. As such, putting the schedule property for sale is arbitrary and illegal.

The petition filed under Rule 52(21)(a)&(b) of Rules is still pending with the 1st respondent. In view of the above, without expressing any opinion on merits, the 1st respondent is directed to dispose of the claim petition filed by the petitioner under Rule 52(21)(a)&(b) of Rules, within a period of eight weeks from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken against the petitioner.

With the above directions, the Writ Petition is disposed of. No order as to costs.

20-11-2006

prk